Supreme Court, U. S.
FILED
SEP 25 1978
MICHAEL RODAK, JR., CLERK

No. 78-502

In the

Supreme Court of the United States

BRIAN K. FLISK, and BRIAN K. FLISK, RECEIVER,
HOWARD WEITZMAN,
and H.J. COLEMAN COMPANY, INC.,
an Illinois corporation,

Petitioners

vs.

HONORABLE WILLIAM A. KELLY,
Judge of the Circuit Court of Cook County Illinois,
Municipal Division,

Respondent

PETITION FOR WRIT OF CERTIORARI TO THE CIRCUIT COURT OF COOK COUNTY ILLINOIS, MUNICIPAL DIVISION

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Of Counsel

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JURISDICTIONAL STATEMENT

The jurisdiction of this Court is invoked pursuant to 28 U.S.C. Section 1257, Subsection 2:

> The Supreme Court of the United States has declared that the Replevin Statutes of the individual states of the United States require due process when the owner-seller of merchandise attempts to take back his property from a purchaser or a lessee.

The Petitioner seeks an order of court requiring and directing the Circuit Court of Cook County, Illinois, Municipal Division, to abide by the decisions in:

> *Snaidach* v. *Family Finance Corporation* (1969) 395 U.S. 377; 23 L.Ed 2d 349; *Goldberg* v. *Kelly* (1970) 397 U.S. 254, 25 L. Ed 2d 287; *Fuentes* v. *Shevin* (1972) 407 U.S. 67, 32 L. Ed 2nd 556; *Aguilar* v. *Texas*, 389 U.S. 108, 114, 12 L. Ed 2d 723.

It is essential that this court grant Certiorari, in order that the court grant due process, when there is no possibility that the property will be destroyed and the lessee has offered to post a bond for twice the amount of the value of the meters.

It is essential that this Court grant Certiorari due to the conflict of the decisions rendered by this Court in *Fuentes* v. *Shevin* and *Mitchell* v. *Grant Company* (1974) 416 U.S. 600, 40 L. Ed 2d 406, 94 Sup. Ct. 1895.

That in *Fuentes* v. *Sheven* this Court determined that due process must prevail in a replevin proceedings and that

> parties whose rights are to be affected are entitled to be heard and in order that they may enjoy that right they must first be notified." 31 L. Ed 2d 569.

This Court further determined that due process did not prevail in the states of Florida and Pennsylvania unless "there was an 'opportunity' for a hearing before the state authorized its agent to seize the property in the possession of a person upon the application of another."

This Court further held that the right to be heard:

> "is to protect his use and possession of property from arbitrary encroachment to minimize substantively unfair or mistaken deprivations of property, a danger that is especially great when the state seizes goods simply upon the application of and for the benefit of a private party." 32 L. Ed 2d 570

The decision in *Mitchell* v. *Grant Co.* was rendered in 1974 whereas *Fuentes* v. *Shevin* was rendered in 1972.

THE QUESTIONS ARE SUBSTANTIAL

The transcripts of the hearings before the Respondent more than confirm that the purpose of the use of the writ of replevin was to seize the meters and the writ of replevin was used as a search warrant.

The refusal of the Respondent to issue an order directing the sheriff to return the gas meters concurrently with the posting of money orders twice the value of the meter, and the refusal of the Respondent to direct Peoples Gas Light and Coke Company who had possession of the meters in its "shop" for examination by the States Attorney of Cook County to return the meters concurrently with the posting of the bond, confirms that the "civil writ of replevin" was being used as a search warrant. The use of the writ of replevin was a sham.

That using a writ of replevin as a search warrant is an abuse of the police power of the Respondent since that writ could not have been obtained without probable cause. See *Aguilar* v. *Texas*, 389 U.S. 108, 114, 12 L. Ed 2d 723.

STATEMENT OF THE CASE

The litigation commenced with the filing of writs of replevin.

The attorney for Peoples Gas Light & Coke Company, the Plaintiff in the Replevin suit, presented a motion without notice to the Respondent requesting the issuance of writs of replevin in seven individual cases without consolidation.

The Respondent was requested to hear the proceedings in chambers on the false representation that the defendants upon receiving notice of the legal proceedings to obtain the meters through replevin actions "would destroy the meters."

The Respondent, being very naive in the matter of the construction of gas meters and of the piping, interjected that he had heard of cases where rubber tubing was used to bypass meters. This is a fantastic idea since all of the buildings in these cases are large ones, and the connecting of a one-half inch rubber hose to a 4-inch gas line would blow the party trying to make the connection out of existence. Furthermore, the Respondent "bought" the suggestion of counsel for plaintiff "hook, line and sinker."

A police officer appeared in chambers who said he was assigned to determine if there was meter tampering although he had never been in the basements of any of the buildings. The Sheriff was specifically instructed not to serve the writs prior to the seizure of the meters. The sheriff admitted he did not serve any writs prior to the seizure of the meters and in one instance it was served on a janitor after seizure; in another instance it was left on the corner of a desk with a rental collection agent in a real estate office. However, in those few cases where writs were served it was after the removal of the meters.

An examination of the transcript of the hearing, which is being transmitted concurrently with the Petition, reflects the fantastic presentation presented by the Plaintiffs at the "star chamber proceedings" of the Respondent.

To compound the denial of due process and the Petitioners' rights, the Court entered an order providing the "forcible entry" without a bond. The damage to the premises was substantial in that the doors and locks were broken open making the buildings open to vandalism.

The importance of having this Court grant certiorari is indicated by the misconception of the Respondent on the requirement of due process in a replevin proceeding.[1]

The Fuentes decision of this Court established the unconstitutionality of the state statutes that failed to provide for hearing "at a meaningful time", 32 L.Ed 2d 556, 570:

> "The Florida Replevin Statute granted an opportunity for a hearing after the seizure of the goods; and the Pennsylvania Statute allowed a possible seizure hearing if the aggrieved party initiated one."

The reasoning of this Court in the Fuentes Decision was that:

> "The fair process of decision making (a notice) that it guarantees works by itself to protect against arbitrary deprivation of property . . . it has long been recognized that fairness can rarely be obtained by secret one-sided determination of facts decisive of rights."

---

[1] Notice and service of writ prior to seizure is a mandatory requirement under the Replevin Statute of the State of Illinois.

ARGUMENT

* *

POINT ONE

* *

THE SEQUESTRATION VIOLATED THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT BECAUSE IT WAS ORDERED EX PARTE WITHOUT PRIOR NOTICE OR WITHOUT OPPORTUNITY FOR A HEARING.

* *

The Case of *Mitchell* v. *W.T. Grant* (1974) 14 U.S. 600, 40 L.Ed 2d 406, 94 Sup. Ct. 1895, is being used and interpreted as a basis for the court justifying eliminating the necessity of the service of writ prior to sequestration when the matter involves only a gas meter.

The state law of Illinois requires the service of a writ upon the defendant prior to sequestration, and the case of *Mitchell* v. *W.T. Grant Company*, ibid, is used as a basis for justification that

> "it was all right to dispense with notice prior to sequestration,"

on the reasoning that Defendant might destroy the gas meter or conceal it prior to sequestration if a notice was served on the defendant.

Based on the foregoing petition and affidavit, which is signed by the attorney for the Peoples Gas Light and Coke Company, the Court not only dispensed with notice but ordered the sequestration of the property without a hearing.

In fact, the Court refused to accept money orders for twice the value of the meters.

In the Mitchell case, the Court asserted that W.T. Grant had reason to believe that the Defendant would

> "encumber, alienate, or otherwise dispose of the merchandise described in the Complaint".

What was true in the Mitchell Case, did not apply to the case at bar.

The Petitioners' basic proposition is that because he had possession of a substantial interest in the sequestered property, due process clause of the Fourteenth Amendment necessarily forbade the seizure without prior notice and an opportunity for a hearing, the lower court held.

In the circumstances, presented here, we cannot agree.

In the Mitchell Case, the court said:

> "Petitioner owned the goods he had purchased under an installment sales contract but his title is heavily encumbered. The seller, W.T. Grant, also had an interest in the property.

The court held that it cannot accept the Petitioner's broad assertion that the due process clause of the United States Constitution guarantees to him the use and possession of the goods until all issues in the case were judicially resolved after full adversary proceedings had been completed. It is certainly clear under this court's presentation, that issues can be limited in actions for possession.

The case at bar is not on all fours with the Mitchell Case, since in the Mitchell Case, the payment ceases and possession and use by the buyer continues. The seller's interest in the property as security is steadily and irretrievably eroded until the time at which the full hearing is held.

The buyer is permitted to regain possession by putting up

his own bond to protect the seller. This in the case at bar was denied.

The Court in the Mitchell case held:

"The requirements of due porcess of law are not technical nor is any particular form of procedure necessary. *Inland Empire Council* v. *Mills*, 325, U.S. 697, 710, 89 L. Ed 2d 877, 65 Sup. Ct. 1945."

"The state law provided it with a vendor's lien, to secure the unpaid balance of the purchase price."

This is not a case where the property sequestered by the court is exclusively the property of the Defendant-debtor.

Resolution of the due process question must take into account not only the interest of the buyer of the property but those of the seller as well.

The Louisiana statutes provide for sequestration where one claims the property or right to possession of the property or mortgage lien or privilege thereon if it is within the power of the defendant to conceal, dispose of or waste the property or the revenues therefrom or remove the property from the parish during the pendancy of the action. In the case at bar, Petitioner is only a lessee under contract, by virtue of the Illinois Commerce Act.

The debtor without moving to dissolve the sequestration may also gain possession by filing his own bond to protect the creditor against the interim damage to him should he ultimately win his case and have judgment against the debtor for the unpaid balance of the purchase price which was the object of the suit of the sequestration.

Due process of law guarantees no particular form of procedure. It protects substantial rights. See *NLRB* v *Mackay*, 304 U.S. 333, 351, 82 L.Ed 2d 1381, 58 Sup. Ct. 1938.

The very nature of due process negates any concept of inflexible procedures universally applicable to every imaginable situation.

In the Mitchell Case, the petitioner asserted that its right to a hearing before its possession is in any way disturbed, is nonetheless mandated by a long line of cases in this court culminating in *Snaidach* vs. *Family Finance Corporation*, 397 U.S. 377, 23 L.Ed 2d 349.

The Pre-Snaidach cases are said by the Petitioner to hold that the opportunity to be heard must preceed any actual deprivation of private property. Their import however is not so clear as a petitioner would have it. They merely stand for the proposition that a hearing must be had before one is finally deprived of his property, do not deal at all with the need for a predetermination hearing where a full and immediate post-termination hearing is involved.

In the case at bar, it is an attempt to bypass the Illinois Commerce Commission from which an appeal is taken to the Circuit Court of Cook County. The cases are still pending there and until that procedure is exhausted the Municipal Court of Chicago did not have a right to make a determination.

POINT TWO

* *

THE COURT IS CALLED UPON TO MAKE A DECISION AS TO WHETHER OR NOT TO GRANT CERTIORARI DUE TO THE RULE 107 OF THE SUPREME COURT OF ILLINOIS WHICH SPECIFICALLY PROVIDES THE FORM OF NOTICE TO BE SENT FOR THE ISSUANCE OF A WRIT OF REPLEVIN.

* *

It requires that the notice be sent in the form substantially as that indicated in the form. In 1973 the Illinois Replevin Act, Chapter 119, was amended to provide for notice and hearing prior to the issuance of the writ of replevin in conformity to the decision of the U.S. Supreme Court in *Fuentes* v. *Shevin* 407 U.S. 67, Section 4(a) of the Statute as amended provide a five-day notice of a hearing on the question of the issuance of a writ of replevin be given in the manner required by Rule of the Supreme Court, Rule 107.

The theory that the gas meter could be destroyed is a fantastic belief because the plaintiff could do nothing with the meter. The meters are old and were not installed in the first place immediately following their manufacture. Some of the meters vary in age up to thirty-five years.

The Judge who is the Respondent in this matter is either naive or has no acquaintance with gas meters when he said that there was a possibility and acquiesced to the waiver of notice prior to sequestration.

Seventy-five years ago, the Court held in *Boyd* vs. *United States*, 116 U.S. 616, 630, 29 L.Ed. 746, 6 Sup. Ct. 524, that considering the Fourth and Fifth Amendments as running "almost into each other" and the facts before the Supreme Court, the Supreme Court held that the doctrine of those Amendments applies to all invasions and its employs of the sanctity of a man's home and the privacies of life. It is not

the breaking of his doors and the rumaging of his drawers that constitutes the essence of the offense, but it is the invasion of his indefeasible rights of personal security, personal liberty and private property.

The court went on to say:

> "Breaking into a house and opening boxes and drawers are circumstances of aggravation but any forcible and compulsory extortion of a man's own testimony or of his private papers, to be used as evidence to convict him of crime or to forfeit his goods is within the condemnation of those amendments."

Less than thirty years after Boyd, the Court, (1914) in *Weeks* vs. *The United States*, 332 U.S. 383, 532, 34 S. Ct. 341 stated:

> "That the Fourth Amendment put the Courts of the United States and the federal officials in the exercise of their power and authority under limitations and restraints and forever secured the people, their persons, houses, papers and effects against all unreasonable searches or seizures under guise of law, and duty of giving to it force and effect as obligatory upon all entrusted under our federal system with the enforcement of the laws."

Specifically dealing with the evidence unconstitutionally seized, the Court concluded:

> "If letters and private documents can thus be seized and held in evidence against a citizen accused of an offense the protection of the Fourth Amendment declaring his right to be secure against such searches and seizures is of no value, and, so far as those thus placed are concerned, might well be stricken from the Constitution. The efforts of the Courts and of officials to bring the guilty to punishment, praiseworthy as they are, are not to be aided by the sacrifice of those great principles established by years of endeavor and suffering which have resulted in their embodiment in the fundamental law of the land."

Finally the Court stated:

"That the use of the seized evidence involved the denial of the constitutional rights of the accused."

There was no basis for seizing the meters, since the matter was pending before the Circuit Court of Cook County, and until that court decided the question on appeal from the Commission's ruling, the Circuit Court, Municipal Division, was restrained, even though a restraining order was not specifically issued, from taking any action.

There is no question that the Replevin Proceedings was used as a search warrant.

POINT THREE

* *

NOTICE TO THE DEFENDANT IS REQUIRED UNDER SECTION 4(a) OF THE REPLEVIN ACT OF THE STATE OF ILLINOIS.

* *

The Replevin Act, Chapter 119, Section 4(a) of Illinois Revised Statutes, Smith-Hurd Edition, reads:

"The defendant shall be given five days notice in the manner required by rule of the Supreme Court, of a hearing before the court to contest the issuance of a writ of replevin;

"No writ of replevin may issue nor may property be seized pursuant to a writ of replevin, prior to such notice and hearing such as provided in Section 4(b);

"As to any particular property, the right to notice and hearing may not be waived by any consumer."

As used in this section, the consumer is an individual who obtains possession of properties for personal, family, household or agricultural purposes. Any waiver of the right to notice and hearing established must be in writing. The consumer cannot waive his right to notice and hearing prior to the sale; in this instance, the consumer is a bailee and not a purchaser.

Respondent in this instance listened to Plaintiff's counsel, that is the Counsel for Peoples Gas Light & Coke Company, say that he feared that the property would be destroyed, and therefore attempted to justify a seizure without notice.

This is a flimsy excuse to seize the property, whereas the Mitchell case, ibid, held:

"Due process of law guarantees no particular form of procedure and protects substantial rights."

What are the rights of a person who is relegated to the Utility Act? If he has a complaint, he must go before the Commerce Commission. If he is not satisfied, he appeals to the Circuit Court.

This is not a case where the Petitioner is deprived of his property. This is a case where, in some instances, forty people in one building were deprived of water, heat and cooking gas, all on the theory that the Mitchell Case authorized the sequestration without a hearing prior to a seizure.

In the case at bar, it is important that the Court finally address itself as to whether or not a hearing is necessary prior to sequestration when plaintiff will admit that the property is not that of the petitioner, it belongs to the Peoples Gas Light and Coke Company which has a franchise.

That, due to the franchise, Peoples Gas Light & Coke Company has a monopoly and Petitioner is relegated to using only the Peoples Gas Light & Coke Company for supplying its heat, for hot water and for cooking gas.

Petitioner asserts that his right to a hearing before his possession is in any way disturbed, nonetheless is mandated by a long line of cases in this court, culminating in *Snaidach* vs. *Family Finance Corporation*, ibid, 1969, and *Fuentes* v. *Shevin*, ibid, 1972.

The pre-Snaidach cases are said by Petitioner to hold that the opportunity to be heard must preceed any actual deprivation of private property.

This is especially true where the property is that of the Gas Company and the court cannot equate that the same level where a person buys property on the installment plan and is unable to pay for the property

The fact that there is ultimate determination, as the court mentioned in the Mitchell Case, ibid, is not necessarily a protection to the Petitioner. In *Snaidach* v. *Family Finance Corp.* it said that

". . . MacKay and like cases dealt with a procedural rule that may satisfy due process for attachments in general, but one would not necessarily satisfy procedural due process in every case."

One that gives necessary protection to all property in its modern forms.

In the Snaidach Case, the court also observed that:

"That garnishment was subject to abuse by creditors without valid claims, a risk minimized the nature of the security interest there at stake and the protection to the debtor offered by Louisiana procedure."

The court specifically held:

"Because carried out without notice or opportunity for hearing, and without judicial participation, this kind of seizure was held violative of due process clause, *Snaidach* v. *Family Finance Corp.*", ibid.

Judge Powell concurred with the opinion rendered by Justice White in the Mitchell Case. However, Justice Powell said that:

"The constitutional guarantee of procedural due process requires an adversary hearing before an individual may be temporarily deprived of any possessary interest in tangible personal property."

In the instant case it is not a possessary interest; it is the right to use the gas meter until the courts had decided whether or not the Commerce Commission was correct. The petitioner is only a lessee or a bailee.

Before the Illinois Commerce Commission, Petitioner requested that applications for subpoenas be approved, requiring the production of documents such as the premise record, the computer record and all other records that the respondent was using to compute its bills.

These were denied.

The question that is now before this court is whether it is essential that the court grant certiorari in order that due process may be obtained when there is no possibility that the property will be destroyed and the state statute requires a notice and hearing prior to sequestration.

The petitioners have come to court with money orders twice the value of the cost of the meters and have offered to post these checks with the court, which was refused.

Secondly, the sheriff did not have the meter in his possession; neither did the gas company. The meters were in the hands of the States Attorney for investigatory purposes.

From this it is quite obvious that the purpose of seizing the meters and the use of the Replevin Act was a subterfuge for the use of a search warrant.

This should not be permitted.

If the decision of this Court in: *Mapp* vs. *Ohio* (1961) 367 U.S. 643, 6 L.Ed. 2d 1081, 81 U.S. 1684, is still good law, then

> "as a matter of due process, evidence obtained by a search and seizure in violation of the 14th Amendment is inadmissible, in a state court as it is in a federal court."

Then this court should order the meters returned to the petitioners upon the posting of the bond for lack of due process.

The opinion of this Court in *Mapp* v. *Ohio*, ibid, ends with the following quotation:

> The ignoble shortcut to conviction left open to the State tends to destroy the entire system of "constitutional restraints on which the liberties of the people rest. Having once recognized that the right to privacy embodied in the Fourth Amendment is enforceable against the States, and that the right to be secure against rude invasions of privacy by state officers is, therefore, constitutional in origin, we can no longer permit that right to remain an empty promise. Because it is enforceable in the same manner and to like effect as other basic rights secured by the Due Process Clause, we can no longer permit it to be revocable at the whim of any police officer who, in the name of law enforcement itself, chooses to suspend its enjoyment. Our decision, founded on reason and truth, gives to the individual no more than that which the Constitution guarantees him, to the police officer no less than that to which honest law enforcement is entitled, and to the courts, that judicial integrity so necessary in the true administration of justice." 6 L Ed 2d 1093.

CONCLUSION

This Court is required to grant certiorari as the case of *Mitchell* v. *Grant*, ibid, is being misinterpreted. That replevin is being used for sequestration without a hearing resulting in violation of due process which is guaranteed to every individual.

Replevin is being used in place of a search warrant.

No proceedings is presently pending by the States Attorney of Cook County, or any other criminal proceedings involving the meters that were sequestered.

As has been called to the attention of this Court, if *Mapp* v. *Ohio* is good law, then the Court should eliminate any possibility that *Mitchell* v. *Grant* authorizes the seizure carte blanche not of merchandise, but of a gas meter, which obviously cannot be destroyed and there would be no point in destroying it.

The Court is required to emphasize in its opinion that a replevin suit cannot be used in place of a search warrant.

Respectfully submitted,

WILLIAM HENNING RUBIN
Counsel for
Petitioners

LAW OFFICES OF:

WILLIAM HENNING RUBIN
188 W. Randolph - 714
Chicago, Illinois 60602
263-6780

APPENDIX

June 28, 1978

Mr. William Henning Rubin
Attorney at Law
188 W. Randolph
Suite 714
Chicago, IL 60601

In re: Brian K. Flisk, et al., etc., petitioners, vs. Honorable William A. Kelly, Judge of the Circuit Court of Cook County, Municipal Division, respondent. No. 50816.

Dear Mr. Rubin:

The Supreme Court today made the following announcement concerning the above entitled cause:

The motion by petitioners for leave to file instanter a supplemental memorandum of law and certain transcripts in support of petition for mandamus is allowed.

The motion by petitioners for leave to file a petition for an original writ of mandamus and for further relief is denied.

Very truly yours,

Clerk of the Supreme Court
Springfield, Illinois

CLW:jae

App. 2

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Municipal DEPARTMENT First

(COUNTY) (MUNICIPAL) (DIVISION) (DISTRICT)

Peoples Gas Light & Coke Co.
Plaintiff
v.
BRIAN FLISK
HOWARD WEITZMAN
H.J. COLEMAN CO.
ESTATE OF C. SPADE
Defendants

78M1-290379
78M1-290380
No. 78M1-290381
78M1-290382
78M1-290383
78M1-290384

ORDER

This cause coming on for hearing on the Motions of the Defendants in all of the above matters pending before this Court and the Court having jurisdiction of the parties and subject matter and being fully advised in the premises and having heard testimony and argument of counsel,

IT IS ORDERED:

1.) That the matters above set forth are heard together for the convenience of the parties and of the Court. That Attorney William Rubin is given leave to appear on behalf of all the defendants and shall file his appearance on their behalf in the respective cases.

2.) That the Motion of the Defendants filed in each cause for emergency relief from the issuance of the Writ of Replevin is denied.

3.) That the oral motion of the Defendants for an Order upon the Sheriff of Cook County to accept the forthcoming bond of the defendants in the above cause is denied.

May 24 , 19 78

Name Wexler, Wexler and Heller, Ltd.
Attorney for Plaintiff
Address 134 N. LaSalle Street
City Chicago, Illinois 60602
Telephone 236-3644

ENTER:

.....
Judge

App. 3

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Municipal DEPARTMENT First

(COUNTY) (MUNICIPAL) (DIVISION) (DISTRICT)

Peoples Gas Light & Coke Co.
Plaintiff
v.
BRIAN K. FLISK &
H.J. COLEMAN CO.
Defendants

No. 78M1-290380

ORDER

This cause coming on for hearing on the Motion to Dismiss the Replevin Proceeding and other Relief filed by the Defendant, and the Court having jurisdiction of the parties and of the subject matter and the court having heard the testimony of witnesses and the arguement of counsel, and otherwise being fully advised in the premises:

IT IS ORDERED:

1.) That the written motion for an order upon the Sheriff of Cook County, Illinois to accept the forthcoming bond offered by the defendant is denied and the order of May 24, 1978 denying the same shall stand in full force and effect.

2.) That the profer of checks to the court in payment of the forthcoming bond is refused, and the same checks offered as exhibits shall not be admitted as evidence in the record of this cause.

3.) That the Motion to Strike the Motion to Dismiss the Replevin Proceeding filed by the Plaintiff is hereby denied.

4.) That the Motion to Dismiss the Replevin Proceeding filed by the defendant herein is hereby denied.

5.) That all other relief prayed for in the Motion to Dismiss the Replevin Proceeding filed by the defendant is specifically denied.

6.) That the trial of this cause is set for June 19, 1978 at 11:00AM in this cause as previously set before this court in room 1401 of the Richard J. Daley Center Building.

May 31 , 19 78

Name Wexler, Wexler and Heller, Ltd.
Attorney for Plaintiff
Address 134 N. LaSalle Street
City Chicago, Illinois 60602
Telephone 236-3644

ENTER:

.....
Judge

App. 4

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Municipal (COUNTY) (MUNICIPAL) DEPARTMENT First (DIVISION) (DISTRICT)

Peoples Gas Light & Coke Co.
Plaintiff
v.
BRIAN K. FLISK, receiver

No. 78M1-290381

ORDER

This cause coming on for hearing on the Motion to Dismiss the Replevin Proceeding and other Relief filed by the Defendant, and the Court having jurisdiction of the parties and of the subject matter and the court having heard the testimony of witnesses and the arguement of counsel, and otherwise being fully advised in the premises:

IT IS ORDERED:

1.) That the written motion for an order upon the Sheriff of Cook County, Illinois to accept the forthcoming bond offered by the defendant is denied and the order of May 24, 1978 denying the same shall stand in full force and effect.

2.) That the profer of checks to the court in payment of the forthcoming bond is refused, and the same checks offered as exhibits shall not be admitted as evidence in the record of this cause.

3.) That the Motion to Strike the Motion to Dismiss the Replevin Proceeding filed by the Plaintiff is hereby denied.

4.) That the Motion to Dismiss the Replevin Proceeding filed by the defendant herein is hereby denied.

5.) That all other relief prayed for in the Motion to Dismiss the Replevin Proceeding filed by the defendant is specifically denied.

6.) That the trial of this cause is set for June 19, 1978 at 11:00AM in this cause as previously set before this court in room 1401 of the Richard J. Daley Center Building.

May 31 , 19 78

Name Wexler, Wexler and Heller, Ltd.
Attorney for Plaintiff
Address 134 N. LaSalle Street
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ENTER:

Judge

App. 5

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Municipal (COUNTY) (MUNICIPAL) DEPARTMENT First (DIVISION) (DISTRICT)

Peoples Gas Light & Coke Co.
Plaintiff
v.
BRIAN K. FLISK
Defendant

No. 78M1-290382

ORDER

This cause coming on for hearing on the Motion to Dismiss the Replevin Proceeding and other Relief filed by the Defendant, and the Court having jurisdiction of the parties and of the subject matter and the court having heard the testimony of witnesses and the arguement of counsel, and otherwise being fully advised in the premises:

IT IS ORDERED:

1.) That the written motion for an order upon the Sheriff of Cook County, Illinois to accept the forthcoming bond offered by the defendant is denied and the order of May 24, 1978 denying the same shall stand in full force and effect.

2.) That the profer of checks to the court in payment of the forthcoming bond is refused, and the same checks offered as exhibits shall not be admitted as evidence in the record of this cause.

3.) That the Motion to Strike the Motion to Dismiss the Replevin Proceeding filed by the Plaintiff is hereby denied.

4.) That the Motion to Dismiss the Replevin Proceeding filed by the defendant herein is hereby denied.

5.) That all other relief prayed for in the Motion to Dismiss the Replevin Proceeding filed by the defendant is specifically denied.

6.) That the trial of this cause is set for June 19, 1978 at 11:00AM in this cause as previously set before this court in room 1401 of the Richard J. Daley Center Building.

May 31 , 19 78

Name Wexler, Wexler and Heller, Ltd.
Attorney for Plaintiff
Address 134 N. LaSalle Street
City Chicago, Illinois 60602
Telephone 236-3644

ENTER:

Judge

App. 6

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Municipal (COUNTY) (MUNICIPAL) DEPARTMENT First (DIVISION) (DISTRICT)

Peoples Gas Light & Coke Co.
Plaintiff
v.
BRIAN K. FLISK &
ESTATE OF C. SPADE
Defendants

No. 78M1-290384

ORDER

This cause coming on for hearing on the Motion to Dismiss the Replevin Proceeding and other Relief filed by the Defendant, and the Court having jurisdiction of the parties and of the subject matter and the court having heard the testimony of witnesses and the arguement of counsel, and otherwise being fully advised in the premises:

IT IS ORDERED:

1.) That the written motion for an order upon the Sheriff of Cook County, Illinois to accept the forthcoming bond offered by the defendant is denied and the order of May 24, 1978 denying the same shall stand in full force and effect.

2.) That the profer of checks to the court in payment of the forthcoming bond is refused, and the same checks offered as exhibits shall not be admitted as evidence in the record of this cause.

3.) That the Motion to Strike the Motion to Dismiss the Replevin Proceeding filed by the Plaintiff is hereby denied.

4.) That the Motion to Dismiss the Replevin Proceeding filed by the defendant herein is hereby denied.

5.) That all other relief prayed for in the Motion to Dismiss the Replevin Proceeding filed by the defendant is specifically denied.

6.) That the trial of this cause is set for June 19, 1978 at 11:00AM in this cause as previously set before this court in room 1401 of the Richard J. Daley Center Building.

May 31 , 19 78

Name Wexler, Wexler and Heller, Ltd.
Attorney for Plaintiff
Address 134 N. LaSalle Street
City Chicago, Illinois 60602
Telephone 236-3644

ENTER:

.....
Judge

App. 7

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Municipal (COUNTY) (MUNICIPAL) DEPARTMENT First (DIVISION) (DISTRICT)

Peoples Gas Light & Coke Co.
Plaintiff
v.
HOWARD WEITZMAN
Defendant

No. 78M1-290379

ORDER

This cause coming on for hearing on the Motion to Dismiss the Replevin Proceeding and other Relief filed by the Defendant, and the Court having jurisdiction of the parties and of the subject matter and the court having heard the testimony of witnesses and the arguement of counsel, and otherwise being fully advised in the premises:

IT IS ORDERED:

1.) That the written motion for an order upon the Sheriff of Cook County, Illinois to accept the forthcoming bond offered by the defendant is denied and the order of May 24, 1978 denying the same shall stand in full force and effect.

2.) That the profer of checks to the court in payment of the forthcoming bond is refused, and the same checks offered as exhibits shall not be admitted as evidence in the record of this cause.

3.) That the Motion to Strike the Motion to Dismiss the Replevin Proceeding filed by the Plaintiff is hereby denied.

4.) That the Motion to Dismiss the Replevin Proceeding filed by the defendant herein is hereby denied.

5.) That all other relief prayed for in the Motion to Dismiss the Replevin Proceeding filed by the defendant is specifically denied.

6.) That the trial of this cause is set for June 19, 1978 at 11:00AM in this cause as previously set before this court in room 1401 of the Richard J. Daley Center Building.

May 31 , 19 78

Name Wexler, Wexler and Heller, Ltd.
Attorney for Plaintiff
Address 134 N. LaSalle Street
City Chicago, Illinois 60602
Telephone 236-3644

ENTER:

.....
Judge